Conference of Ministers responsible for Media and Information Society

Artificial Intelligence – Intelligent Politics

Challenges and opportunities for media and democracy

10-11 June 2021

Resolution on freedom of expression and digital technologies

The specialised Ministers of the Council of Europe member states, on the occasion of the Conference of Ministers responsible for Media and Information Society, jointly organised by the Council of Europe and the Republic of Cyprus and held online on 10-11 June 2021, adopt the following resolution:

1. Technological advancement over the past decades has fundamentally transformed the communication patterns and behaviours of individuals, communities and societies. Modern communication is influenced and shaped by digital tools and services that play a role throughout our social, economic and political lives, within families, in class-rooms and in public life more broadly. While affecting the exercise of all human rights and fundamental freedoms, including notably the right to privacy and data protection, the growing application of these technologies, including different forms of artificial intelligence (AI), is having a profound impact on the exercise and enjoyment of the right to freedom of expression, as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and interpreted by the European Court of Human Rights.

2. The right to form, hold and express an opinion without undue interference, along with its corollaries of freedom of information and media freedom, is crucial for the fulfillment and protection of all other human rights. It enables citizens to make informed choices, to participate actively in democratic processes, and to help ensure that powerful interests are held to account. Empirical research points persistently to a strong correlation between the levels of media freedom and the overall resilience of a democracy. Media freedom, therefore, is essential in any democracy, and for economic prosperity, and is part of our collective global human rights agenda.

3. The impact on freedom of expression, whether positive or negative, of progressively autonomous digital technologies and services carry consequences not only for our individual freedoms but also for the very foundations of democratic societies. As such, they deserve our keen political attention and we welcome the research and initiatives undertaken already in various member States, aimed at amplifying positive effects and preventing or minimising possible adverse effects.

4. The use of digital technologies, including different forms of artificial intelligence (AI), impacts freedom of expression at several levels: at the level of communication between individuals, which is facilitated, structured and shaped by online platforms and social media; in the context of newsrooms and media outlets; and at the broader societal level, including in political communication. Moreover, it can have a considerable influence over our individual self-determination and its protection. To be comprehensively addressed by policy makers in Council of Europe member States, these different levels of impact must be considered both separately and in conjunction with each other.

5. As regards communication between individuals, different forms of AI applications are increasingly relied upon to enhance access to information, seek new opportunities for expression and explore novel forms of interaction. At the same time, digital technologies also create new forms of interference with freedom of expression. The blocking, filtering, removal, demotion or demonetisation of illegal and harmful online content, for instance, can only be managed at scale with the help of algorithms that are developed and run by platforms. While algorithms play a vital role in accelerating and expanding online platforms' efforts to detect and address illegal and harmful content, human oversight over these processes is crucial to avoid undue limitations. Ensuring effective human oversight does not only constitute a complex task, it also raises serious concerns regarding the labour conditions of relevant workforces which have yet to be suitably addressed.

6. We are concerned that existing approaches to online content moderation do not always satisfy the requirements of legality, legitimacy and proportionality guaranteed in Article 10.2 of the Convention. Digital technologies must operate within firm legal frameworks that help prevent unintended consequences, including over-takedown, bias and lack of transparency, and must be accompanied with effective complaint mechanisms. We pledge to coordinate more closely our efforts in this regard, through international cooperation and on the basis of independent research, including through jointly developed standards. For this purpose, we acknowledge the need for enhanced transparency and dialogue with the wide range of non-governmental actors that operate in the online environment, including civil society representatives, online service providers and social media companies, individual users and the media, who must each live up to their respective responsibilities.

7. At the level of the media and the newsroom, digital technologies and AI tools are increasingly deployed to support research and content production, including through fully automated news creation, as well as to facilitate content distribution. The latter is mainly performed through automated recommender systems that, benefitting from data exploitation practices often unknown to the user, tailor the distribution of news according to the 'digital profiles' and assumed preferences and emotions of readers. Such micro-targeting techniques have revolutionised the news ecosystem, led to the emergence and empowerment of new media actors, including social media platforms, and fundamentally shifted routines and divisions of tasks between humans and machines. Yet, these techniques are often based on biased datasets that are

unrepresentative of the public, particularly with respect to marginalised groups, thereby limiting the exposure of users to diverse information.

8. The advent of digital technologies has also prompted a structural shift within media markets, which is putting into question the sustainability of traditional media. Access to technology, skills and data constitutes an important competitive advantage for large social media platforms and search engines over traditional media outlets, particularly smaller ones and those located in regions with limited digital infrastructure. Moreover, while traditional media can be held liable for the content that they publish and are subject to editorial rules and ethics regarding the accuracy of their content and the credibility of their sources, including with respect to reader comments, online platforms do not hold the same level of liability for the content they give access to.

9. At broader societal level, the technical possibility of tailoring information according to the assumed preferences of specific groups and for diverse purposes entails opportunities for a more interactive and user-oriented public information environment. The possibility for individuals to gain greater insight and control over their media use could therefore create optimal conditions for them to seek, receive, and generate information on all matters of public and private interest and for freedom of expression to flourish. Owing to the mounting use of digital technologies in the communication sphere, including in political communication, information is no longer transmitted to an unidentified and unidentifiable audience. The risk of stereotyping individuals on the basis of their past preferences must, however, be duly taken into account as an adverse influence on free self-development and formation of opinion.

10. At the same time, the increasing use of digital technologies for the personalised distribution of information via social media platforms has resulted in a growing digital divide where some groups are marginalised, with access to a less diverse information offer, while others benefit from amplified channels to access information, disseminate their opinions and dominate public discourse. This situation has contributed to the fragmentation of public communication spaces into divided groups that feed from and nurture contradictory narratives. This carries obvious concerns for democratic participatory processes and the development and preservation of cohesive societies. Targeted efforts are needed to address the digital divide, among others, by promoting more diversity within the labour forces that design, encode and engineer digital technologies and different forms of AI.

In view of the above:

a. We affirm the pivotal importance of freedom of expression, which embraces the freedom of information, and the particular role of the media as a pillar and precondition of participatory democracy, as a platform for deliberation, provider of pluralist information and critical watchdog over holders of political, economic and social power.

b. We stress our commitment to ensure that further integration of digital technologies and different forms of AI into public communication spaces and the media occur in full respect of human rights, notably freedom of expression, and in line with the relevant caselaw of the European Court of Human Rights.

c. We commit to reach out actively to all actors involved in the design, development and deployment of digital technologies and AI tools for the creation, moderation and distribution of online content and to develop functional collaborative and/or co-

regulatory approaches to such processes. These may include legally binding regulation where appropriate, providing for effective protection of freedom of expression in the digital environment, while fostering safety, straightforward access to legal remedies and independent oversight over content moderation practices.

d. We emphasise the need for all relevant actors, at an early stage of application design and development of such technologies, to assess the possible adverse impact on human rights and the safety of users and to adopt a precautionary approach, based on 'human rights by design' and 'safety by design' models, as well as appropriate measures for risk prevention and mitigation.

e. We underline the importance of empowering individuals of all age, gender, and socio-economic groups, through targeted media and information literacy programmes, to understand and exercise their rights and responsibilities as regards online expression, to develop the necessary competences to draw benefit from the use of digital technologies, including AI tools, and to identify, assess and mitigate possible risks to their safety and well-being.[1]

f. We pledge to create, where appropriate, the necessary regulatory conditions for ensuring that automated processes for the creation and dissemination of news, including through tools such as Natural Language Processing, robo-journalism and algorithmically prepared newsfeeds, be used in full respect of freedom of expression. Relevant legislative frameworks should pay due attention to the rights and responsibilities of journalists. These include rights regarding access to data for the purposes of investigations as well as the protection of journalists' data and that of their sources.

g. We reiterate the particular role and mission of public service media in delivering a diverse, attractive and inclusive media offer and creating optimal conditions for freedom of expression. Public service media should set an example for the responsible use of AI and should be provided with the remit, resources, and independence necessary to fulfill this role with transparency and accountability. They should be enabled to experiment with and invest in AI tools that promote media pluralism and the values of privacy and data protection, diversity, equality and social cohesion by actively reaching out to disengaged audiences, including youth.

h. We urge all actors to pay closer attention to groups who are marginalised in the information environment, structurally excluded from receiving news, at risk of receiving a less diverse information offer or paying a disproportionate price for it, including in terms of privacy. We will focus on developing solutions that give persons belonging to such groups access to more diverse information and more control in exercising their freedom of expression rights in the online environment.

i. We highlight, in the light of the growing competition between traditional media and new media actors, and with a view to protecting and promoting open and diverse media markets, the need for member States to ensure that access to innovative technologies, training data, digital skills and education regarding their use is readily accessible to all media, including, smaller and local players. To this end we commit

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[1] The position of the Russian Federation on this paragraph is expressed in its interpretative statement appended to the documents of the Ministerial Conference.

to support and publish independent research related to technological advancement that can foster freedom of expression and help bridge the digital divide.

j. We underline that new media actors (including online platforms) have an active responsibility in preventing negative impacts of digital technologies on freedom of expression, including selective use of sources, rendering access to news contingent on personalised data exploitation, over-takedown and bias, in line with CM/Rec (2018)2 on the roles and responsibilities of internet intermediaries.

k. We invite the Council of Europe to continue to create awareness for and critically observe the operation of digital technologies at the level of communications between individuals, within newsrooms and within public communication spaces, and to assess their impacts, positive and negative, on freedom of expression, including through the work of the Steering Committee on Media and Information Society and the Ad hoc Committee on AI, with a view to

I. Developing guidance on the impacts of digital technologies and AI tools on freedom of expression and the most effective means for its protection, building on the experiences gathered and results achieved in the member States.

II. Elaborating, in close cooperation with media professionals, guidelines for the development of codes of ethical conduct for journalists, editors and new actors with editorial-like functions, including online platforms and software developers, to promote and foster

  a. the informed, transparent and responsible use of AI tools in the newsroom, including as regards effective human oversight over automated journalistic processes, the adequate verification of content accuracy and credibility of sources,
  b. protection from the dangers of data exploitation, including with respect to personal data protection safeguards, and from the bias contained in datasets,
  c. exposure to full diversity of media content and sources, especially with respect to marginalised groups.

  Guidance should consider the different cultural, economic, legal and technological conditions in member States and their specific implications for the use of digital technologies in the newsroom.

III. Exploring the level of desirable user control from the media's and from society's perspective and studying what levels of transparency must accompany automated media distribution processes and newsfeeds.

IV. Exploring how the enhancement of user autonomy may be translated into the design, development and deployment of algorithmic systems for use by the media.

V. Supporting the development of effective and targeted media and information literacy projects that empower individuals of all backgrounds to critically understand the opportunities and challenges of the use of digital technologies and AI tools in public and private communication, and allow them to take control over their data and the form in which they wish to exercise their freedom of expression in the digital environment.

VI.   Reviewing regularly, in consultation with the relevant stakeholders, and reporting on the measures taken to implement this Resolution.